# CRIMINAL REVISION.

*Before Mr. Justice Mitter and Mr. Justice Grant.*

1886 *July* 22.

POONIT SINGH (PETITIONER) *v.* MADHO BHOT AND ANOTHER (OPPOSITE PARTIES.)*

*Penal Code*, s. 182—*False information to a public servant, Charge of—Criminal Procedure Code*, s. 195—*Sanction to prosecution—Separate convictions for one statement, Illegality of.*

An information was given to a police officer in the course of which two persons were named in whose houses stolen property belonging to a certain individual would be discovered: on complaint the information was found to be false, and the accused was convicted and punished for two offences under s. 182 as affecting two different persons. *Held*, that although the information related to two different persons, the accused could be charged with having made only one false statement, and punished for one offence under s. 182.

Section 195 of the Criminal Procedure Code clearly shows that a complaint directly made by a public servant mentioned therein is quite as sufficient as his sanction.

*Empress of India* v. *Radha Kishan* (1) dissented from.

THIS was an application for revision under s. 435 of the Criminal Procedure Code. The petitioner, Poonit Singh, was a resident of Bhutowli in Arrah, of which village Anandi Doss was a part proprietor. A theft was reported to have taken place in the house of Anandi Doss, and a police inquiry was pending. On the 3rd of April, Poonit Singh appeared before the District Superintendent, and asked that the houses of certain zemindars and mahajans of Arrah be searched, as he had overheard "four bad characters of his village (Bhutowli) say in the cutchery verandah that they had committed the theft in Anandi Doss's house and the stolen property was in the houses of Chunder Koomar, Abdūllā and another." In consequence of this information, which was duly recorded at the thanna the same day by the Sub-Inspector, the Police searched the houses of Chunder Koomar and Abdulla. No property was found, and the origina case was reported as false.

*Criminal Revision No. 282 of 1886, against the order passed by J. R. Hand, Esq., Deputy Magistrate of Arrah, dated the 23rd of June 1886.

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Upon complaint the Deputy Magistrate convicted Poonit Singh on two distinct charges under s. 182 of the Penal Code, one in the matter of Chunder Koomar and the other in that of Abdulla, and sentenced him to three months' imprisonment under each head.

It was contended on behalf of the petitioner before the High Court (1) that the Deputy Magistrate had no jurisdiction to try an offence under s. 182 upon the complaint of a private person without the previous sanction of the public servant concerned; and (2) that the Deputy Magistrate was in error in awarding two distinct punishments for one and the same offence.

Mr. *R. Mittra* and Baboo *Bhagobati Charan Ghose* for the petitioner.

The judgment of the Court (MITTER and GRANT, JJ.) was as follows:—

Two points of law have been argued before us: *first*, that the Magistrate was not authorised by law to allow this prosecution to be instituted on the complaint of a private individual. In support of this contention the learned Counsel who appeared for the petitioner has cited a ruling of the Allahabad High Court —*Empress of India* v. *Radha Kishan* (1). With due deference to the learned Judge who decided that case, we are unable to take the view which has been taken in it. The language of s. 195 clearly shews that it would be quite sufficient if either the sanction of the public servant mentioned therein were given, or a complaint is directly made by him. That being so, we are unable to agree in the proposition of law laid down in the case cited before us. This point therefore fails, but upon the second point which has been taken before us, we think that the conviction and sentence in one of the two cases are bad. The accused person was charged with having given a false information to a public servant, and in that information no doubt he mentioned the names of two persons in whose houses he, the accused, was informed that stolen property belonging to Anandi Doss would be found, but the statement is one, and therefore he

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could be charged only with having made one false statement. He was therefore erroneously tried for two distinct offences under s. 182. We therefore set aside the conviction and sentence in the second case, *viz.*, the case which was initiated on the complaint of Sheikh Abdulla. The conviction and sentence passed by the Magistrate in the case which was instituted on the complaint of Madho Bhot, gomastah of Baboo Chunder Coomar, will stand.

K. C. M. *Conviction quashed in part.*

*Before Mr. Justice Prinsep and Mr. Justice Beverley.*

IN THE MATTER OF THE PETITION OF YACOOB.

1886
*August 4.*

YACOOB *v.* ADAMSON.*

*Presidency Magistrate—Summary trial—Conviction in non-appealable case—High Court as a Court of Revision—Code of Criminal Procedure, ss* 370, 437.

In every case which is not appealable to the High Court, a Presidency Magistrate should state his reasons for convicting the prisoner, so that the High Court may judge as to whether there were sufficient materials before the Magistrate to support the conviction.

In a case where the accused was convicted of theft and sentenced to six months' rigorous imprisonment, the notes of the evidence taken by the Magistrate did not afford sufficient materials upon which the prisoner could be legally convicted, and the Magistrate had omitted to record his reasons for the conviction under s. 370, cl. (*i*) of the Code of Criminal Procedure.

*Held*, by the High Court as a Court of Revision, that the conviction and sentence must be set aside, notwithstanding the provisions of s. 437 of the Code of Criminal Procedure.

IN this case the accused Sheikh Yacoob applied to the High Court by petition, under the provisions of s. 439 of the Code of Criminal Procedure, praying that a finding and sentence passed by the Presidency Magistrate in a case wherein the petitioner was charged with the theft of certain Government Currency Notes should be set aside on the ground that there was no evidence on the record to support the conviction. The Chief Magistrate's judgment was as follows :—

* Criminal Revision Case No. 305 of 1886, against the order passed by Mr. F. J. Marsden, Chief Presidency Magistrate, Calcutta, dated the 8th July 1886.